

## CHAPTER 21 - SHORELAND ZONING

### 21.01 - STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization is §§59.69, 59.692, 59.694, ~~59.70~~, 87.30, and 281.31, Wis. Stats.

### 21.02 - FINDING OF FACT.

Uncontrolled use of the shorelands and pollution of the navigable waters of Lincoln County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Lincoln County, Wisconsin.

### 21.03 - PURPOSE.

For the purpose of promoting the public health, safety, convenience, and welfare, and protect the public trust in navigable waters this chapter has been established to:

#### (1) FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:

- (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
- (b) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems sewage disposal facilities.
- (c) Controlling filling and grading to prevent ~~serious~~ soil erosion problems.
- (d) Limiting impervious surfaces to control runoff which carries pollutants.
- (e) Preserving wetlands to minimize runoff and soil erosion.

#### (2) PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:

- (a) Preserving wetlands and other fish and aquatic habitat.
- (b) Regulating pollution sources.
- (c) Controlling shoreline alterations, dredging and lagooning.
- (d) Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to aquatic life.

#### (3) CONTROL BUILDING SITES, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:

- (a) Separating conflicting land uses.
- (b) Prohibiting certain uses detrimental to the shoreland wetlands area.
- (c) Setting minimum lot sizes and width.
- (d) Setting Regulating side yards and building setbacks from waterways.
- (e) Setting the maximum height of near shore structures.

#### (4) PRESERVE and RESTORE ~~SHORELAND VEGETATION COVER~~ AND NATURAL SCENIC BEAUTY THROUGH:

- (a) Restricting the removal of natural shoreland cover.
- (b) Preventing shoreline encroachment by structures.

- (c) Controlling shoreland excavation and other earth moving activities.
- (d) Regulating the use and placement of boathouses and other structures.
- (e) Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to natural beauty and shore cover.

(f) Preserving native wetland plant/tree communities and preventing the destruction and degradation of wetlands.

**21.04 - TITLE.**

[This chapter shall be known as the] "Shoreland Zoning Ordinance for Lincoln County, Wisconsin."

**21.05 - APPLICABILITY.**

(1) AREAS TO BE REGULATED. Areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Lincoln County, which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds, or flowages, and ~~within 1,000 feet of the high water mark of glacial pothole lakes.~~ Lakes, ponds, rivers, or flowages in Lincoln County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Lincoln County" or are shown on United States Geological Survey 7.5 minute series quadrangle maps or other zoning base maps and/or field data.

(b) Within 300 feet of the ordinary high water mark of navigable rivers ~~and navigable~~ streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Lincoln County shall be presumed to be navigable if they are designated as perennial continuous waterways or intermittent waterways on United States Geological Survey 7.5 minute series quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

(c) The zoning ~~department administrator~~ shall initially make determinations of navigability and ordinary high water mark location. When questions arise, the zoning ~~department administrator~~ shall contact the appropriate local office of the Department of Natural Resources for a final determination of navigability or ordinary high water mark.

(d) Under §281.31(2m), Wis. Stats., ~~notwithstanding~~ any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to the natural navigable stream or river;
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
3. Such lands are maintained in nonstructural agricultural use.

(e) Agricultural practices such as plowing of fields and installation of conservation practices are exempt from permitting and grading/filling standards of this chapter as long as they are prescribed practices and adhere to standards inherent in Wisconsin Administrative Codes as promulgated under Chs. 281 and 92, Wis. Stats.

(f) Forestry activities such as harvesting of trees, construction of access roads and landings are also exempt from regulation under this chapter as long as best management practices, as prescribed by "Wisconsin's Forestry Best Management Practices for Water Quality Field Manual", are adhered to by the landowner and logger or the practice is prescribed and supervised by a practicing forester.

(2) SHORELAND ZONING MAPS AND REPORTS. The maps designated below are hereby adopted and made part of this chapter by reference. They are on file in the Lincoln County Zoning Department office. ~~of the~~

~~Zoning Administrator for Lincoln County.~~

- (a) United States Geological Survey 7.5 minute series Quadrangle Maps for Lincoln County (as revised).
- (b) Wisconsin Department of Natural Resources Wetland Inventory Maps ~~dated May 28, 1985 (as amended)~~.
- (c) Floodplain Zoning Maps as adopted in Chapter 20 (infra) identified as Flood Insurance Rate Maps (as amended). (~~Am. #2008-03-520~~)
- (d) Lincoln County Lake and River Classification Map ~~(as amended)~~ and Scoring Criteria Report ~~(as revised)~~. (Am. #2008-03-520)

(3) COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (However, see §§21.13 and 21.14 for standards applicable to nonconforming uses). Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this chapter. Property owners, builders and contractors are responsible for compliance with the terms of this chapter.

(4) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply when §13.48 (13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.~~2022(4)12(4)(a)~~, Wis. Stats., applies.

(5) ABROGATION AND GREATER RESTRICTIONS. The provisions of this chapter supersede all the provisions of any county zoning ordinance adopted under §59.69, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than §59.69, Wis. Stats., is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (a) This chapter shall not require approval or be subject to disapproval by any town or town board.
- (b) If an existing town ordinance relating to shorelands is more restrictive than this chapter or any amendments thereto, the town ordinance continues in all respect to the extent of the greater restrictions but not otherwise.
- (c) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restriction, the provisions of this chapter shall prevail.
- (d) The provisions of the Lincoln County Zoning Ordinance and the Lincoln County Subdivision and Platting Control Ordinance are hereby incorporated by reference into this chapter. These provisions shall only apply to the shoreland areas where they impose greater restrictions than this chapter otherwise imposes.

(6) INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this chapter is required by a standard of Ch. NR115, Wis. Adm. Code (WAC), and where the ordinance provision is unclear, the provision shall be interpreted in light of the Ch. NR115, Wis. Adm. Code, standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment of this chapter.

(7) SEVERABILITY. If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

**21.06 - RELATION TO OTHER LINCOLN COUNTY ORDINANCES.**

(1) All other provisions of the Lincoln County Code of Ordinances related hereto are incorporated herein by

reference, to the extent that they impose greater restrictions.

(2) All requirements relative to lighting, light pollution, maintenance of a nuisance through lighting and lighted signs of the Lincoln County Code of Ordinances are hereto incorporated by reference.

(3) LAND DIVISION REVIEW. The county shall review, pursuant to §236.45, Wis. Stats., and Chapters 17 and 18 [of this Code of Ordinances], all land divisions in shoreland areas which create parcels or building sites of less than 10 acres each.

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## GENERAL PROVISIONS

### 21.07 - REQUIREMENTS FOR SHORELAND DEVELOPMENT.

(1) DIMENSIONAL STANDARDS for properties located upon the 3 classes of waterbodies shall be as follows:

Dimensional Standards of Waterways as Classified by the Lincoln County Lakes and River Classification Map			
Dated October 8, 2003			
Lot Size	30,000 sq. ft.	40,000 sq. ft.	50,000 sq. ft.
Shoreline Frontage	150 ft.	175 ft.	200 ft.
Lot Width	150 ft.	175 ft.	200 ft.
Ordinary HighWater Mark (OHWM) Setback	75 ft.	90 ft. <u>(See Section 21.07 (1)(a))</u>	100 ft. <u>(See Section 21.07 (1)(a))</u>
Side Yard Setback	Cumulative of 25 ft. with a minimum of 10 ft.	Cumulative of 30 ft. with a minimum of 10 ft.	Cumulative of 35 ft. with a minimum of 10 ft.
Road Setback	<u>* See Section 21.07(1)(b)</u>	<u>* See Section 21.07(1)(b)</u>	<u>* See Section 21.07(1)(b)</u>
Impervious Surface Coverage	<u>Less than 15% of lot without mitigation. Up to 30 % of lot with mitigation per section 21.07 (3) and 21.10. Greater of 20% of Lot or 3000 sq. ft.</u>	<u>Less than 15% of lot without mitigation. Up to 30 % of lot with mitigation per section 21.07 (3) and 21.10. Greater of 18% of Lot or 3,000 sq. ft.</u>	<u>Less than 15% of lot without mitigation. Up to 30 % of lot with mitigation per section 21.07 (3) and 21.10. Greater of 15% of lot or 3,000 sq. ft.</u>
Buffer Depth	35 ft.	50 ft.	60 ft.
<u>** View and Access Corridor (See Section 21.07 (1)(c))</u>	No more than 30 ft. in any 150 ft.	No more than 30 ft. in any 175 ft.	No more than 30 ft. in any 200 ft.
<u>Structure Height</u>	<u>No more than 35 feet for structures within 75 feet of the OHWM</u>	<u>No more than 35 feet for structures within 75 feet of OHWM</u>	<u>No more than 35 feet for structures within 75 feet of the OHWM</u>

(a) The ordinary high water mark setback may be reduced down to 75 feet on moderate and high sensitivity waterways subject to the mitigation schedule in Section 21.07 (3). All other provisions of this chapter shall be met.

(b)\* All Structures must adhere to required road/highway setbacks where applicable.

(c)\*\* For lots with less than the prescribed width, refer to Section 21.09 (3) ~~(g) 3 and 4~~ of this chapter.

(2) ADJUSTMENTS. To allow flexibility in meeting specified dimensional, setback, shoreland buffer and impervious surface requirements established in this chapter, an adjustment schedule is hereby established. This schedule ascribes weighted values to dimensional increments and allows these units (points) to be flexibly combined to meet those requirements of this chapter that are in excess of minimum state standards. In no instance can these points be used to offset dimensional deficiencies that fall below said minimum state standards. Permitted projects are those that result in a zero or positive net balance of points. The balance of mitigation points required and earned shall be evaluated when a zoning permit is issued. An affidavit which identifies the means by which mitigation points are earned shall be recorded with the deed to notify future owners of the property of the need to maintain such practices.

(3) MITIGATION SCHEDULE. (Am. #2008-03-520)

**MITIGATION REQUIREMENTS AND OPPORTUNITIES**

<p>Points are required for developing property under the following conditions:</p>	<p>Opportunities to earn mitigation points include:</p>
<p><del>Building or excavating on slopes from 10% to 19% - 2 points</del></p> <ul style="list-style-type: none"> <li>• Building or excavating on slopes greater than or equal to 20% - 3 points</li> <li>• Building at reduced setbacks from the <del>"OHWM"</del> - 1 point for 1<sup>st</sup> 0—10 ft. <del>-and</del> ½ point for each additional rounded 5 ft. increment</li> <li>• Building at a reduced setback from the road right-of-way - 1 point for 1<sup>st</sup> 0—10 ft. <del>-and</del> ½ point for each additional rounded 5 ft. increment (only applies to nonconforming lots under §21.14)</li> <li>• <del>Building on an existing lot that contains less than the required lot dimension - 1 point for the 1<sup>st</sup>-reduction of 0—10,000 sq. ft. and ½ point for each additional rounded 5,000 sq. ft. reduction</del></li> </ul> <p><u>Impervious surface coverage is between 15% and 20% - 1 point</u></p> <p><u>Impervious surface coverage is between 20% and 30% - 2 point</u></p> <p><u>Impervious surface coverage is greater than 30% - 3 points.</u></p>	<ul style="list-style-type: none"> <li>• Increasing buffer depths - ½ point for each rounded 5 ft. increment</li> <li>• Reducing the width of the view <u>and</u> /access corridor - ½ point for each rounded 5 ft. increment</li> <li>• If lot is larger than prescribed minimum size - ½ point for each rounded 5,000 sq. ft. increment</li> <li>• Removal of legal nonconforming accessory structure - 1 point</li> <li>• Removal of legal nonconforming habitable structure - 3 points</li> <li>• <del>Replacement of failing septic system due to setbacks or sizing - 2 points</del></li> <li>• <del>Replacement of failing septic system due to surface water or groundwater impacts - 3 points</del></li> <li>• <del>Removal of a sanitary privy - 1 point</del></li> <li>• Removal of nonstructural impervious surfaces - ½ point for each rounded 500 sq. ft. of pavement. ½ point for each rounded 1,000 sq. ft. of hardpacked gravel</li> <li>• <u>Having a compliant shoreland buffer - 1 point</u></li> <li>• Restoration of a Passive Buffer -1 point</li> <li>• Restoration of an <u>Active Buffer</u> -2 points</li> <li>• Installation of a preapproved runoff control <u>or infiltration</u> structure** - 2 points</li> <li>• Leaving percentages of the parcel in a natural state: 25—49% - 1 point; 50—74% - 2 points; &gt;74% - 3 points</li> </ul>
<p>* Only in special circumstances can a setback of less than 75 ft. to the OHWM be authorized by mitigation - see §§21.13 and 21.14 of this chapter.</p>	<p>** <del>The Lincoln County Land Conservation Department has a list of preapproved runoff control structure designs.</del> The use of a specific runoff control <u>or infiltration</u> structure is subject to approval by the Zoning Department</p>

(4) IMPERVIOUS SURFACES. Impervious surface standards shall apply to the construction, reconstruction, expansion, repair, replacement or relocation of any impervious surface that is either located on a riparian lot or located on a non-riparian lot where that non-riparian lot is located entirely within 300 feet of the ordinary high water mark.

(a) Properties containing impervious surfaces legally constructed prior to the adoption of this chapter and which exceed coverage limits of Section 21.07 (1) may be maintained, repaired, reconstructed or replaced such that the total impervious surface coverage is either reduced or remains the same, subject to all other provisions of this chapter.

(b) For properties under alternative forms of ownership such as condominiums, cooperatives and associations, the limits to expansion on structures and caps on impervious surfaces shall be attributable to the total number of

units within the development. For example: If owners within a 3 unit condominium development have 1500 square feet of expansion opportunity available to the units under the impervious surface limitations and they want to expand their structures, then the expansion opportunity for principal or accessory structures shall be split equally amongst the 3 units so that no more than 500 feet of expansion to impervious surfaces is afforded to each unit.

(4\_5) BOATHOUSES.

(a) Legal Pre-Existing Boathouses that were constructed prior to July 1, 1998, shall not be expanded but may be structurally repaired subject to the following standards:

1. provided that~~A~~ a shoreland buffer of compliant dimensions and standards is present or reestablished per §21.0907(13)(g) and 21.10 (2) – (6). The mitigation schedule in Section 21.07(3) only applies in respect to the impervious surface standards. Said buffer may be a passive shoreland buffer.

2. ~~The boathouse shall also count toward the allowable available-view and /access corridor calculation.~~

3. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.

~~Boathouses that extend beyond the OHWM are regulated by the Department of Natural Resources~~

(b) New Boathouses may be constructed on lots that conform to the dimensions prescribed in the standards for low sensitivity waterways in §21.07(1) of this chapter and only on lands adjacent to such waterways subject to the following standards:

1. They shall be setback a minimum of 10 feet landward of the OHWM and the floor or top of the footing must be at or above the OHWM an elevation of 2 feet above the OHWM.

2. They may not exceed a dimension of 300 square feet nor may they exceed a height of 12 feet.

3. They shall be constructed with a pitched roof that equals or exceeds a 4/12 rise to run but is not steeper than 6/12 rise to run.

4. ~~or~~ If a flat roof is constructed for purposes of creating a deck, observation platform or similar use, then the boathouse and the deck must be constructed at a minimum setback of 35 feet to the OHWM and the deck may not exceed a dimension of 200 square feet in compliance with the standards prescribed by §59.692(1v), Wis. Stats. The deck must be considered and authorized under the provisions of this statute and §21.07(5\_6) of this chapter.

5.4. ~~They Mm~~ must be completely located within the allowable view and access corridor of the parcel.

6. 5. ~~TheA shoreland vegetative~~ buffer zone must be reestablished under the provisions of §21.10(1)(c) of this chapter to the dimensions and standardsdepths prescribed by §21.07(1) and 21.10 (2) – (6) of this chapter. The mitigation schedule in Section 21.07(3) only applies in respect to the impervious surface standards.

7.6. ~~Construction shall occur only on slopes of less than 20 percent grade.~~

8. The boathouse cannot contain plumbing or plumbing fixtures and cannot be used for human habitation.

7. ~~They shall be constructed such that roof runoff is directed to a runoff control structure.~~

(c) Wet Boathouses

1. The maintenance and repair of non-conforming boathouses that extend completely beyond the ordinary high water mark of any navigable waters shall be required to comply with s.30.121, Wisconsin Statutes and are regulated by the Wisconsin Department of Natural Resources. If any portion of the boathouse is located above the Ordinary High Water Mark, the requirements of Section 21.07 (5)(a) or (b) are applicable to the entire boathouse.

(5\_6) SPECIAL ZONING PERMISSION PURSUANT TO §59.692(1v), WIS. STATS (59.692 Permit).

(a) Performance Standards. (Am. #2008-03-520) A reduced setback will be granted for open-sided, ~~or screened~~ and/or no sided structures such as gazebos, decks, patios and screen houses within the shoreland setback area subject to the following standards: provided that

(1) If located less than the required buffer depth as prescribed in Section 21.07 (1), the structure must be completely located within the allowable view and access corridor of the parcel.

(2) A ~~shoreland buffer qualifying buffer zone~~ is present to a depth of at least ½ of the required setback from the OHWM. If a ~~shoreland qualifying~~ buffer is not already present, one must be restored to a depth of ½ of the Ordinary High Water Mark required setback and cover at least 70 percent of the shoreline frontage, according to the ~~Dimensional Standards for low sensitivity waterways per Section 21.07 (1) and 21.10 (2) – (6) of the sensitivity class, and that covers at least 70 percent of the shoreline width. For moderate or high sensitivity waterways, the shoreland buffer must be compliant with the Dimensional Standards specified in Section 21.07 (1).~~ A restoration plan compliant with §21.10(~~3 2) – (6)~~) of this chapter must be submitted.

(3) Mitigation under §21.07(3) is ~~also~~ applicable.

(4) If a ~~shoreland qualifying~~ buffer is already present, a permit may be issued after the Recording Requirements are met.

(b) Dimensional Standards. The total floor area of all structures (excluding boathouses) in the shoreland setback area shall not exceed 200 square feet. Structures authorized by a 59.692 Permit shall be set back at least 35 feet from the OHWM, and if freestanding, be constructed no taller than 12 feet above surrounding grade.-

(c) Recording Requirements. (Am. #2008-03-520) An affidavit shall be signed by the owner requesting the 59.692 Permit which acknowledges the requirement to maintain the restored or existing qualifying shoreland buffer area and any mitigation required under §21.07(3). Said affidavit will also be recorded in the Lincoln County Register of Deeds office and serve as official notice of this requirement to future property owners.

(6\_7) DEVELOPMENT OF ISLANDS.

(a) Islands with sufficient area to meet setbacks and not subject to flooding may be used for development after obtaining a conditional use permit from the Planning and Zoning Committee.

(b) Development of islands shall be subject to the following provisions as minimum standards. Greater restrictions may be imposed by conditional use permit.

1. The approved use shall be a permitted or conditional use for the underlying zoning district.

2. A developed island shall be provided with at least one mainland access lot, on that same waterbody, for ingress, egress, and parking areas and sanitary maintenance on the island. An access lot shall meet the minimum dimensional requirements for a new lot on that body of water according to Section 21.07 (1). The construction or placement of any structure on an access lot is prohibited with the exception of piers, docks, wharfs, boat hoists and boat shelters in conformance with Wisconsin Administrative Code –NR 115 and NR 326, ~~WAC~~, and Ch. 30, Wis. Stats.

3. The number of principal structures, building sites, single family units, or single family condominium units on an island (density of structures) shall be based upon the surface area, frontage and buildable areas that meet setbacks as prescribed by the applicable zoning district and/or lot size for the classification of the water body within which the island is located.

4. A structure with plumbing shall only be allowed on an island with an approved Sanitary Permit including a viable Maintenance Agreement and Contingency Plan, including a maintenance contract

signed by a licensed service provider. A holding tank septic system shall not be allowed as an acceptable waste disposal system due to the frequent service interval requirements. If a road access to the island is authorized by permit and constructed, a holding tank may be considered for waste treatment at that time.

5. Cutting of vegetation within the required shoreland buffer ~~area~~ shall be further limited such that the number of view and /access corridors is no greater than the number of principal structures or single family units, whichever is greater.

(c) Islands shall not be developed if any of the following exist:

(1) Islands without Insufficient upland area

(2) Insufficient ,-areas that meet setbacks

(3) Island is ,-areas ~~not~~ subject to flooding

(4), Noa viable access lot

(5), or that have Other significant environmental limitations (slopes, inadequate soils, etc.)-shall not be developed.

(6) Documented cultural or historic value.

~~(d) Islands with documented cultural or historic value shall not be developed.~~

(7\_8) DEVELOPMENT OF BACK LOTS. The development of shoreline property as an access lot for use by owners of back lots may take place after obtaining a conditional use permit from the Planning and Zoning Committee. The following minimum requirements shall be made conditions of the conditional use permit:

(a) The minimum width of an access lot shall be determined according to the Dimensional Standards in Section 21.07 (1) and 150 feet measured at the lot's narrowest point.

(b) The proposed access lot shall not provide water access for more than 3 back lots or dwelling units and must comply with the Dimensional Standards for Shoreline Frontage per Section 21.07 (1).~~for every 150 feet of water frontage.~~

(c) The proposed access lot shall meet the lot size requirements outlined in the Dimensional Standards in Section 21.07 (1)~~be at least 30,000 square feet in area~~, not including space devoted to any public roadway or right of way that may intersect the access lot.

(d) The back lots having access to the water over the access lot must be situated so that they are contiguous to each other, excepting roadways, and their furthest boundary no more than 1,000 feet from the back of the access lot.

(e) The construction or placement of any structure (including boathouses) on an access lot is prohibited except for piers, docks, wharfs and boat shelters and hoists consistent with provisions of Wisconsin Administrative Code NR 115 and NR 326, ~~WAC~~, and Ch. 30, Wis. Stats.

(f) Each back lot owner shall be granted an undivided interest in the access lot. The access lot shall not be subdivided in any way.

(g) A shoreland buffer of compliant dimensions and standards is present or reestablished per §21.07(1) and 21.10 (2) – (6).

(hg) The following additional Other conditions ~~that~~ may be considered for an access site/lot may include including and ~~are~~ not limited to:  waste containment, sanitary facility, noise limits, screening, parking, parking controls, time requirements, lighting and identification of sites, fish cleaning, gasoline and oil handling, disposition of all waste materials, and restrictions on shoreandine cutting pursuant to §21.09(2)-

(8\_9) EASEMENTS. (Cr. #2008-03-520) Except as provided in §21.07(7\_8), no owner of riparian land that abuts a navigable water may grant by an easement or by a similar conveyance any riparian right in the land to

another person, except for the right to cross the land in order to provide public access to the navigable water.

(9) 10 VIEW AND ACCESS CORRIDOR. (Cr. #2008-03-520) No more than one residential unit/housing unit or one nonresidential principal use shall have designated access through a single view and access corridor, except by conditional use. If a conditional use is granted then no more than 3 residential units/housing units or 3 nonresidential principal uses shall have designated access through a single view and access corridor.

(10) 11 FRONTAGE AND LOT AREA. (Cr. #2008-03-520)

(a) Within the shoreland zone, when more than one residential unit/housing unit or nonresidential principal building is proposed on a lot each additional residential unit/housing unit or nonresidential principal building is again required to have the minimum shoreline frontage required under §21.07(1). (For example, if the minimum shoreline frontage required is 150 feet, a two-family dwelling would be required to have a minimum shoreline frontage of 300 feet.)

(b) Within the shoreland zone, when more than one residential unit/housing unit or nonresidential principal building is proposed on a lot each additional residential unit/housing unit or nonresidential principal building is again required to have the minimum lot size required under §21.07(1). (For example, if the minimum lot size required is 30,000 square feet; a two-family dwelling would be required to have a minimum lot size of 60,000 square feet.)

## **21.08 - ACCESSIBILITY, PIERS, DOCKS, RETAINING WALLS AND FENCES.**

(1) STAIRWAYS, WALKWAYS AND LIFTS. A stairway, ~~elevated~~ walkway or lift is allowed in the shoreland setback area only when it is essential to provide pedestrian access to the shoreline or a ~~permitted~~ pier, boat hoist or boathouse because of steep slopes, ~~rocky~~ or ~~wet~~, unstable soils, ~~subject to the following standards: and when the following conditions are met:~~

(a) Canopies, roofs, and sides are prohibited. Open railings may be provided.

(b) A maximum width of 4 5 feet (outside dimensions) is allowed for stairways, walkways, and lifts.

(c) Landings are allowed where required for safety purposes and shall not exceed a cumulative total of 40 square feet. Attached benches, seats, tables, ~~or similar structures etc.~~ are prohibited.

(d) Stairways, walkways and lifts shall be ~~constructed and surfaced to effectively control erosion and minimize stormwater runoff directly into a waterway. supported on pilings or footings. Any filling, grading or excavation that is proposed must meet the requirements of §§21.10 and 21.11 of this chapter.~~

~~(e) A shoreland buffer of compliant dimensions and standards is present or reestablished per §21.07(1) and 21.10 (2) – (6). The mitigation schedule in Section 21.07(3) only applies in respect to the impervious surface standards.~~

~~(f) Shall be located within the allowable view and access corridor to the extent practicable.~~

~~(g) Any filling, grading or excavation that is proposed must meet the requirements of 21.10 and 21.11 of this chapter.~~

(2) ACCOMMODATIONS FOR DISABLED PERSONS. Where strict interpretation of this chapter would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance under §21.15(2) of this chapter, the Zoning ~~Department Administrator~~ may grant a waiver to the dimensional standards of this chapter in order to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following ~~standards~~ conditions:

(a) Only the minimum relaxation of dimensional standards needed to provide reasonable accommodation shall be approved.

- (b) No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purpose of this chapter.
- (c) Where practicable, the improvement authorized by this provision shall be removed when the premises are no longer occupied or frequented by a disabled person.
- (3) PIERS AND DOCKS. Piers and docks are subject to the regulations of the State of Wisconsin administered by the Wisconsin Department of Natural Resources.
- (4) FENCES.
- (a) Open fences constructed of split rail or wire, may be allowed within the shoreland setback provided they are no taller than 6 feet in height and do not extend waterward beyond the OHWM except as required by other state law.
- (b) Solid or (and) chain link fences shall not be located within the shoreland setback.
- (5) ENTRYWAYS. (Cr. #2008-03-520) For legal preexisting principal structures; where an entryway exists at less than the prescribed setbacks to the water under §21.07(1), a covered entryway up to 40 square feet may be constructed or reconstructed for purposes of safe entry to the structure.
- (a) Such entryway shall be open-sided. It may be covered, but not enclosed.
- (b) A shoreland buffer of compliant dimensions and standards is present or reestablished per §21.07(1) and 21.10 (2) – (6). The mitigation schedule in Section 21.07(3) applies in respect to the impervious surface standards.
- (cb) Such entryway may not be subject to mitigation under §21.07(3), but Ss shall be subject to impervious surface requirements of §21.07(1).
- (6) RETAINING WALLS. (Cr. #2008-03-520) Retaining walls proposed to be constructed, or reconstructed at less than the required setbacks to the water under §21.07(1) shall be subject to permitting requirements under Section 21.15(1)(a) –and conditions attributed to permitting under §21.10(2) and , §21.11 subject to the following standards;and the following requirements:
- (a) Retaining walls constructed, or reconstructed at least 75 feet from the OHWM but less than the required OHWM setback for moderate sensitivity and high sensitivity water bodies may be allowed, but shall be subject to mitigation requirements under §21.07(3).
- (b) Retaining walls constructed, or reconstructed at less than 75 feet from the OHWM shall not be allowed unless approved as an erosion control device by the Zoning Administrator Department.
- (c) An active restoration of the shoreland buffer shall be required under §21.10(2)(b) when such retaining wall is allowed within the shoreland buffer area, prescribed by §21.07(1), in order to accomplish full screening of the retaining wall. The mitigation schedule in sec. 21.07 (3) does not apply.
- (d) Existing retaining walls at less than 75 feet from the OHWM may be repaired but not replaced subject to the standards of this subsection and the shoreland buffer restoration standards in sec. 21.10(2).
- (7) DRIVEWAYS, ROADS AND PARKING. Driveways, roads and parking areas shall be located beyond the shoreland setback to the extent practicable. Where existing site conditions prevent compliance with this subsection such surfaces shall be constructed and surfaced so as to effectively control erosion and minimize stormwater runoff directly into the waterway.

## **21.09 - PRESERVATION AND REMOVAL OF VEGETATIVE COVER.**

- (1) PURPOSE. To protect natural scenic beauty, fish and wildlife habitat, and water quality, Lincoln County shall regulate removal of vegetation in shoreland areas, with standards that consider sound forestry and soil

~~conservation practices and the effect of vegetation removal on water quality including soil erosion and the flow of effluents, sediments and nutrients. The purpose of restricting the removal of trees, shrubbery and vegetative cover in the shoreland area is to protect aquatic and shoreline wildlife habitat, prevent the loss of natural beauty, control erosion and reduce effluent and nutrient flow from the shoreland.~~

(2) SHORELAND CUTTING. Tree, shrubbery and groundcover cutting and clearing shall be restricted in an area located parallel to the ordinary high water mark (OHWM), and extending inland from all points along the OHWM a distance meeting the Dimensional Standard for buffer depth in Section 21.07 (1). This area shall be called the "shoreland buffer". The maintenance and treatment of this buffer shall be subject to the following standards: comply with all of the following requirements:-

(a) Shoreland Buffer Depth. The required minimum depth of the shoreland buffer as measured from the OHWM on any particular lot shall comply with §§21.07 (1) ~~and 21.09(3)(g)~~ of this chapter. The depth of the required shoreland buffer may in no instance be less than 35 feet.

(b) Protection During Times of Construction. Except where construction within the buffer is authorized, ~~All~~ vegetation within the required shoreland buffer shall be protected by fencing to exclude construction activities ~~except where construction within the buffer is authorized~~. Such vegetation shall be maintained so as to maximize the soil stabilization and filtering functions of the buffer. -

(3) EXCEPTIONS TO CUTTING STANDARDS. The following activities are allowed within the required shoreland buffer area, subject to the following standards: -but only under the prescribed conditions:-

(a) Tree, shrubbery and groundcover cutting may occur within a portion of the shoreland buffer, extending from the OHWM through the entire depth of the shoreland buffer. This area shall be called the "View and Access Corridor".

1. The width of a view and access corridor may in no instance exceed 30 feet as measured along the OHWM.

2. The spacing of view and access corridors along the shoreline is governed by §21.07 of this chapter. Unless otherwise approved by the Zoning Department, the view and access corridor may not be located closer than 35 feet from any side lot line on conforming lots or 20 feet on lots with less than 100 feet of shoreline frontage.

3. Lots legally created before the adoption of this chapter with less than the required minimum frontage shall be allowed one view and access corridor.

4. For lots of less than 100 feet in width at the shoreline, the permitted maximum width of the view and access corridor shall be no more than of 30 percent of the lot width at the shoreline.

5. The allowable ~~v~~View and /access corridor(s) that comply with ordinance provisions may Must be maintained with some form of vegetation that prevents ~~provided that~~ bank erosion and sedimentation of the waterway -is prevented. Sand, gravel, rock or other similar materials shall be prohibited as an alternative to vegetation unless otherwise allowed by this chapter.

(b) Dead, diseased or dying trees and tree branches may be removed with prior authorization of the Zoning Department provided they present a safety hazard to structures or persons, and provided they are replaced with native vegetation or approved cultivars of native stock that is equally effective in fulfilling the purposes of the shoreland buffer. Shoreland restoration standards Mitigation as defined by §21.10 (2) – (6) of this chapter may be required.

(c) Noxious or invasive plants may be removed with prior authorization of the Zoning Department provided that they are replaced with native vegetation, or approved cultivars of native stock, that is equally

effective in fulfilling the purposes of the shoreland buffer. Shoreland restoration standards Mitigation as defined by §21.10 (2) – (6) of this chapter may be required.

(d) Silvicultural thinning is allowed on forested parcels 10 acres or larger consistent with “generally accepted forestry management practices” as defined in NR1.25 (2)(b) of the Wisconsin Administrative Code and described in the Department of Natural Resources publication “provided that all appropriate best management practices as prescribed by the “Wisconsin’s Forestry Best Management Guidelines (publication FR-226). Practices for Water Quality Field Manual” are followed, and the purposes for such thinning are to release an existing stand of trees or to support regeneration of forest species.

(e) Landscaping and lawns that extend into the required shoreland buffer area prior to the adoption of this chapter may be maintained until such a time that mitigation is required by §21.10 of this chapter. Existing lawns and landscaping shall not be extended further into the required shoreland buffer area.

(f) Any path, road or passage within the required shoreland buffer area, including the allowable view and /access corridor, shall be constructed and surfaced so as to effectively control erosion and minimize stormwater runoff directly into a waterway.

~~(g) Tree, shrubbery and groundcover cutting may occur within a portion of the shoreland buffer, extending from the OHWM through the entire depth of the shoreland buffer. This area shall be called the “View/Access Corridor”.~~

~~1. The width of a view/access corridor may in no instance exceed 30 feet as measured along the OHWM.~~

~~2. The spacing of view/access corridors along the shoreline is governed by §21.07 of this chapter. Unless otherwise approved by the Zoning Administrator, the view access corridor may not be located closer than 35 feet from any side lot line on conforming lots or 20 feet on lots with less than 100 feet of shoreline frontage.~~

~~3. Lots legally created before the adoption of this chapter with less than the required minimum frontage shall be allowed one view/access corridor.~~

~~4. For lots of less than 100 feet in width at the shoreline, the permitted maximum width of the view access corridor shall be no more than of 30 percent of the lot width at the shoreline.~~

~~5. An envelope of 15 feet around the principal structure may also be maintained free of buffer vegetation.~~

(g) Principal structures ~~that were legally constructed before the adoption of this chapter~~ that are located within 15 feet of the required shoreland buffer ~~area~~ may maintain an envelope around the structure where vegetation cutting and maintenance of lawns and landscaping is allowed. The bounds of this envelope shall not exceed 15 feet as measured from the furthest extent of the building. The view and access corridor shall be located within this envelope insofar as practical.

(h). The combined width of all view and access corridors on a riparian lot or parcel shall not exceed that which is allowed by 21.07 (1) or 200 feet, whichever is less.

(i) Greater cutting than allowed by §21.09(2) may be permitted by the Planning and Zoning Committee by issuance of a conditional use permit for a Special Cutting Plan. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The committee may grant such a permit only if it finds that such special cutting plans:

~~1. Will not cause undue erosion or destruction of natural beauty;~~

12. Will not cause undue sedimentation, destruction of scenic quality, will not increase sedimentation or harm water quality or cause undue destruction of fish and wildlife habitat. exacerbate sedimentation or harm water quality;

32. Will provide substantial visual screening from the water of dwellings, structures and parking

areas. Where the plan calls for replacement planting, the committee may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner within one year of the granting of the permit.

~~4.—Cutting plans shall follow the practices described in the "Wisconsin's Forestry Best Management Practices for Water Quality Field Manual."~~

~~3. The combined width of all view and access corridors on a riparian lot or parcel shall not exceed that which is allowed by 21.07 (1) or 200 feet, whichever is less.~~

~~5.—Slash materials shall be disposed of in a manner that does not violate the Lincoln County Floodplain Ordinance.~~

## **21.10 - SHORELAND RESTORATION AND MITIGATION.**

(1) SHORELAND BUFFER RESTORATION REQUIREMENTS. A shoreland buffer of the required dimensions and composition shall be restored per 21.10(2) when:

(a) ~~A land use permit for soil disturbance activities. An excavation permit is required under §21.11(2), then a passive shoreland buffer shall be restored. An active buffer may also serve as the restoration.~~

(b) An application for a land use zoning permit is submitted to construct a new structure, rebuild a structure, structurally repair a structure, or add on to an existing structure or an addition that will begin at a is setback less than ~~that which is required 300 feet~~ from the OHWM, ~~then a passive shoreland buffer shall be restored. An active shoreland buffer may also serve as the restoration. Both restorations shall qualify for points under the adjustments schedule in §21.07(3).~~

(c) An application for a land use zoning permit for the structural repair of an existing boathouse or construction of a new boathouse under §21.07(4)(b) is submitted, ~~then a passive shoreland buffer shall be restored. An active shoreland buffer may also serve as the restoration. Both restorations shall qualify for points under §21.07(3). Existing boathouses may not be located within the shoreland buffer zone and must be located within the view and access corridor.~~

(d) A lot, unit or condominium is platted created as defined in Chapter 18 of Lincoln County Ordinances, except those defined as a part of a "large lot split" or a "conversion condominium". ~~The restoration may be active or passive to be approved by the Zoning Administrator. (Cr. #2008-03-520)~~

(e) Vegetation within the required shoreland buffer is removed, cut or damaged in violation of Section 21.09.

(f) An application for a land use permit is submitted to construct, repair or rebuild impervious surfaces and the applicable lot exceeds 15% impervious surfaces.

(g) An application for a land use permit is submitted to construct a new principal dwelling.

(2) SHORELAND BUFFER RESTORATION STANDARDS. (Am. #2008-03-520) Where the growth of vegetative cover in the shoreland buffer area has been substantially altered by tree cutting, shrubbery cutting, mowing or other similar activities, the loss of the environmental benefits of the buffer shall may be mitigated. Mitigation of the shoreland buffer ~~zone is only required when such mitigation~~ shall meet the following parameters ~~—§21.10(1)(a)—(d) applies standards:~~

(a) When all mowing, pruning, and vegetation tree cutting ceases within the shoreland buffer area, with the exception of activities allowed by §21.09(3) of this chapter, and existing vegetation is then allowed to grow naturally, this shall be known as ~~the restoration of~~ a passive shoreland buffer restoration

(1) A passive shoreland buffer may only serve as the restoration if tree, shrub and ground cover layers are already present in acceptable densities and the site is suited for natural regeneration.

(b) When all mowing, pruning, and vegetation tree cutting ceases, with exception of activities allowed by

Section 21.09 (3) of this chapter, and native species or approved cultivars of native stock are planted at required densities within the shoreland buffer ~~area~~, this shall be known as an active shoreland buffer restoration. All active shoreland buffer restorations shall meet the following standards:

(1) Planting shall be species native to Wisconsin and approved by the Zoning Department. Cultivars of these native species may be used if approved by the Zoning Department.

(2) Trees shall be planted to restore a density of at least one stem per 100 square feet of buffer area.

(3) Shrubs shall be planted to restore a density of at least 2 stems per 100 square feet of buffer area.

(4) Ground cover shall be restored to the extent practicable.

(3) RESTORATION PLAN REQUIRED. Prior to the issuance of a zoning permit, an applicant required to mitigate the shoreland buffer shall submit a restoration plan to the Zoning Department Zoning Administrator for review and approval. The plan shall include a sketch of the lot showing the dimensions and location of the required buffer area and the proposed location of all view and /access corridors. A plan for the restoration of an active buffer shall also include:

(a) An inventory of plant species currently present and an indication of their density within the required shoreland buffer ~~area~~.

(b) A list of desired native, site-adapted species (or approved cultivars of native species), size or age of species to include in the restoration area and a schedule for their planting. A minimum size or age of species may be required depending on site conditions.

(c) A sketch showing the placement and densities of each species planned for the restored shoreland buffer ~~area~~.

(d) A description of how the applicant intends to carry out the project including a watering plan and the erosion control measures that will be used during construction.

(e) A description of the proposed method for removal of existing turf grass or other non-native species. Landscape cloth, plastic, mill felt or other barriers similar in nature may only be used on a temporary basis to facilitate the removal of non-native species.

(4) RECORDING REQUIRED. All shoreland mitigation requirements shall be maintained in perpetuity, and be recorded on the property deed with a form provided by the Zoning Department.

(5) MITIGATION IMPLEMENTATION. All shoreland mitigation activities must begin within one year of the recording date of the mitigation affidavit or in accordance with a timeline that is written into the mitigation plan and must be completed in accordance with said timeline or within 2 years of the recording date if a timeline has not been established

(6) REPLACEMENT VEGETATION. Any vegetation required as mitigation but subsequently dies shall be replaced and maintained.

## **21.11 - SOIL DISTURBING ACTIVITIES.**

(1) GENERAL STANDARDS. Soil disturbing activities include filling, grading, lagooning, dredging, ditching or excavating. Soil disturbing activities ~~that do not require a permit under §21.11(2)~~ may be permitted in the shoreland area provided that subject to the following standards:

(a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

(b) Soil disturbing activities in a Shoreland-Wetland district meet the requirements of §21.12(3) of this chapter.

(c) All applicable federal, state and local authority is obtained.

(d) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or bulkhead.

(e) The required shoreland buffer area is provided if required by §21.10~~(2)~~

(f) Filling, grading or excavating within the required shoreland buffer depth is prohibited except where authorized in association with a permitted use by this chapter, state, or federal regulations, and only to the minimum extent necessary to accomplish said permitted use.

(2) PERMIT REQUIRED. Except as provided in §21.11(3), a Zoning Permit is required for:

(a) Soil disturbing activities in any area which is within 300 feet landward of the OHWM of navigable water and which has surface drainage toward the water and on which there is either:

1. Any land disturbing activity mMore than 1,000 square feet ~~of exposed soil in total~~ on a site with ~~in~~ slopes exceeding 20 percent; or

2. Any land disturbing activity mMore than 5,000 square feet ~~of exposed soil in total~~ on a site with ~~in~~ slopes between 10 percent and 20 percent.

3. An area of one acre or greater will be disturbed by excavation, grading, filling or other earthmoving activities, resulting in the loss or removal of protective ground cover or vegetation.

~~43.~~ When constructing a new boathouse under §21.07~~(54)~~(b) of this chapter.

~~54.~~ When constructing stairways, walkways, or lifts under §21.08(1) within the shoreland buffer ~~area~~, prescribed by §21.07(1). (Cr. #2008-03-520)

~~65.~~ When constructing a retaining wall under §21.08(6). (Cr. #2008-03-520)

(b) Any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is more than 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

(3) SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE. Soil conservation practices such as but not limited to tilled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under §21.11(2) of this chapter when designed and constructed to Natural Resources Conservation Service technical standards.

(4) PERMIT CONDITIONS. In granting a permit under §21.11(2), all elements of the site disturbance plan required in §21.15(1)(b) ~~(5)~~, as well as the following conditions shall apply as appropriate:

(a) The smallest amount of bare ground shall be exposed for as short a time as feasible.

(b) Temporary ground cover (such as mulch or erosion control mattingjute netting) shall be used and permanent vegetative cover shall be established.

(c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.

(d) Lagoons shall be constructed to avoid fish trap conditions.

(e) Fill shall be stabilized according to accepted engineering standards.

(f) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.

(g) Channels or artificial watercourses shall be constructed with side slope of 2 units of horizontal distance to one unit of vertical distance, or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

(h) Runoff shall be contained onsite and containment structures shall be designed so as to not allow it to escape onto adjoining properties.

- (i) Any other conditions deemed necessary to prevent erosion and protect water quality.

## 21.12 - SHORELAND-WETLAND DISTRICT.

(1) DESIGNATION. This district shall include all shorelands within the jurisdiction of this chapter which ~~are meet the definition of~~ wetlands in Section 21.18 of this Chapter. ~~of 5 acres or more (excluding point symbols), and which are shown on~~ the Wisconsin Wetland Inventory Maps that are adopted and made a part of this chapter show the general location of wetlands but shall not be substituted for actual field conditions. ~~r. A portion of a wetland which is less than 5 acres in size, and which is located in the unincorporated shoreland area within the county, shall be included in the shoreland-wetland district where the wetland as a whole is 5 acres or larger, but extends across the corporate limits of a municipality, across the county boundary or across the shoreland limits, so that the wetland is not regulated in its entirety by the county.~~

(a) Locating Shoreland-Wetland Boundaries. Where an apparent discrepancy exists between the Shoreland-Wetland District boundaries shown on the Wisconsin Wetland Inventory Maps and actual field conditions at the time the maps were adopted, the ~~Zoning Department zoning administrator~~ shall contact the appropriate office of the Department of Natural Resources to determine if the Shoreland-Wetland District boundary as mapped is in error. If Department of Natural Resources staff determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the County shall have the authority to immediately grant or deny a shoreland land use permit in accordance with the applicable regulations based on the Departments determination and the current zoning district. ~~concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The Zoning Administrator shall initiate a map amendment to correct the discrepancy.~~

(2) PURPOSE. The district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetlands.

(3) PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chs. 30, ~~and 31,~~ 281.36 and 281.37, ~~Wis. Stats.,~~ and the provisions of other applicable local, state, and federal laws.

(a) Activities and uses which do not require the issuance of a zoning permit (allowed uses), but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavation except as allowed under §21.11 ~~(2) or~~ (3).

1. Hiking, fishing, trapping, hunting, swimming, and boating;
2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
3. The pasturing of livestock;
4. The cultivation of agricultural crops;
5. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
6. The construction or maintenance of duck blinds.

(b) Uses which do not require the issuance of a zoning permit (allowed uses) and which may include limited filling, flooding, drainage, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silviculturale activities if not corrected;
2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;

3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredge spoil is placed on existing spoil banks where possible;
4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
6. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which require the issuance of zoning permit under §21.15(1)(b) and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation provided that:
  - a. The road cannot as a practical matter be located outside the wetland;
  - b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in §21.12(2);
  - c. The road is designed and constructed with the minimum cross sectional area practical to the intended use;
  - d. Road construction activities are carried out in the immediate area of the roadbed only.
2. The construction or maintenance of nonresidential buildings, provided that:
  - a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animal; or some other use permitted in the Shoreland-Wetland District, including boating;
  - b. The building cannot, as a practical matter, be located outside the wetland;
  - c. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and
  - d. Only limited filling or excavating necessary to provide structural support for the building is authorized.
3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps attendant access roads, provided that:
  - a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Ch. 29, Wis. Stats., where applicable.
  - b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only when such construction or maintenance meets the criteria in §21.12(3)(a)—(c) and;
  - c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms and fish hatcheries is allowed for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

- a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
- b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in §21.12(2).

(4) PROHIBITED USES. Any use not listed in §21.12(3)(a)—(c) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with §21.12(5) of this chapter and §59.69(5)(e), Wis. Stats.

(5) REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

(a) For all proposed text and map amendments to the Shoreland-Wetland provision of this chapter, the appropriate local office of the Department shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provision of this chapter, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory Map adopted as part of this chapter describing any proposed rezoning of a shoreland-wetland;
2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board; and
4. Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.

(b) A wetland, or a portion thereof, in the Shoreland-Wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity;
2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable water.
4. Shoreline protection against soil erosion;
5. Fish spawning, breeding, nursery or feeding grounds;
6. Wildlife habitat; or
7. Areas of special recreational, scenic or scientific interest, including scarce wetland types.

(c) If the Department of Natural Resources notifies the Zoning Department ~~County planning and zoning agency~~ that a proposed text or map amendment to the ~~shoreland and/or~~ shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in §21.12(2), that amendment, if approved by the County Board, shall contain the following provisions:

This amendment shall not take effect until more than 30 days have elapsed after written notice of the County Board's approval of this amendment is mailed to the Department of Natural Resources. During that 30 day period, the Department of Natural Resources may notify the County Board that it will adopt

a superseding shoreland ordinance for the County under §59.692(6), Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the §59.692(6) adoption procedure is complete or otherwise terminated.

### **21.13 - LEGAL PRE-EXISTING STRUCTURES THAT DO NOT CONFORM TO THE NEW STANDARDS.**

(1) ACCESSORY STRUCTURES Accessory structures that were legally constructed before the adoption of this chapter may be maintained or structurally repaired but may not be expanded or rebuilt unless made to conform with provisions of this chapter and subject to the following standards:

(a) - Legal pre-existing boathouses are subject to §21.07(54)(a) of this chapter.

(b) Legal pre-existing accessory structures may not be converted to a principal structure or a dwelling unless made to conform to the provisions of this chapter.

(2) PRINCIPAL STRUCTURES Principal structures that were legally constructed before the adoption of this Chapter are subject to the following provisions.

(a) Principal Structures Less Than 4035 Feet From the OHWM. Such structures are considered nonconforming but are repairable and subject to the following standards: limitations:-

1. Such structures may be improved internally, maintained -or fully structurally repaired without limitation as a matter of right but shall not be expanded.

2. Such improvement shall be confined to the enclosed portions of the building envelope which existed at the time the structure became nonconforming and shall not include new basements in place of alternative foundations or additional stories (no increase in livable area, floor area or footprint).

3. Such structures may be completely torn down and rebuilt if authorization is provided under the setback prescriptions of this chapter or §21.14(1). Maximum size of the rebuilt structure shall be limited by impervious surface limitations, mitigation point earnings and the building envelope limitations allowed by said section.

4. If a compliant building location does not exist on the lot, per setback prescriptions or by §21.14(1), then application may be made for a Conditional Use Permit to authorize reconstruction within the present footprint of the structure or in a location that may not comply with dimensional standards but may be more compliant than the present location. The applicant must demonstrate that enough mitigation points can be earned under §21.07(3) before the permit may be authorized. All measures to safeguard against erosion must be addressed in a site disturbance plan as required in §21.15(1)(b)(5) of this chapter. Additionally, the Zoning Department Committee shall evaluate if other locations exist upon the parcel that could more fully comply with setbacks and further support the stated purposes of this chapter. No increase to the livable area or footprint of the previous structure will be allowed.

5. Such structures may not be converted to an accessory structure unless made to conform to the provisions of this chapter.

6. All other provisions of this chapter shall be met.

(b) Principal Structures At Least 40 35 Feet But Less Than 75 Feet From the OHWM. Such structures are repairable and may be expanded subject to the following limitations standards:

1. Such structures may be improved internally, maintained or structurally fully repaired as a matter of right.

2. Such structures may be completely torn down and rebuilt under issuance of a zoning permit if prescribed setbacks are adhered to or if a compliant building envelope can be afforded under §21.14(1).

3. If a compliant building location does not exist on the lot, per setback prescriptions or by §21.14(1), then application may be made for a Conditional Use Permit to authorize reconstruction

within the present footprint of the structure or in a location that may not comply with dimensional standards but may be more compliant than the present location. The applicant must demonstrate that enough mitigation points can be earned under §21.07(3) before the permit may be authorized. All measures to safeguard against erosion must be addressed in a site disturbance plan as required by §21.15(1)(b)(5). Additionally, the Zoning Department Committee shall evaluate if other locations exist upon the parcel that could more fully comply with setbacks and further support the stated purposes of this chapter.

4. Such structures may be expanded ~~one time over the life of the structure. The expansion shall not result in a total livable area that exceeds 1,500 square feet and further will be limited to 100 percent of the structure's original livable area if that results in a net total of less than 1,500 square feet of livable area. Such expansion may be~~ upward or downward within the same footprint, ~~it may be located on the landward side of the structure~~ or it may begin at any point beyond the required setback. ~~When an expansion has been authorized by permit, a deed affidavit shall be recorded in conjunction with issuance of the permit to serve as notice to future property owners that the expansion opportunity has been exhausted.~~

5. Such structures may not be converted to an accessory structure unless made to conform with the provisions of this chapter.

6. All other provisions of this chapter shall be met.

(c) Principal Structures that Measure at Least 75 Feet From the OHWM, but Less Than the New Setback on Moderate and High Sensitivity Waters. Such structures may be maintained, repaired and expanded beyond 75 feet subject to the following limitations standards:

1. Such structures may be expanded without limit if enough adjustment points are earned under §21.07(3).

2. Such structures may be completely torn down and rebuilt in the present location with a zoning permit if enough mitigation points are earned under §21.07(3) and in compliance with §21.1009.

3. All other provisions of this chapter shall be met.

(d) Legal Pre-existing Principal Structures and Developments that Exceed Density Provisions on a Lot. Expansion opportunities for such structures or developments shall be limited to the rules established in §§21.13(2)(b)(4) and 21.07(1) ~~and 21.07(11) impervious surface limitations.~~

~~1. For properties under alternative forms of ownership such as condominiums, cooperatives and associations, the limits to expansion on structures and caps on impervious surfaces shall be applied equally to the total number of units within the development. For example: If owners within a 3 unit condominium development have 1,500 square feet of expansion opportunity available to the units under the impervious surface limitations and they want to expand their structures, then the expansion opportunity for principal or accessory structures shall be split equally amongst the 3 units so that no more than 500 feet of expansion to impervious surfaces is afforded to each unit.~~

(3) STRUCTURES DAMAGED OR DESTROYED BY VIOLENT WIND, FIRE, FLOOD OR VANDALISM. As required by §59.692(1s), Wis. Stats., if a landowner can establish that a nonconforming structure has been destroyed or damaged after October 14, 1997, by violent wind, vandalism, fire, mold, ice snow, infestation or flood, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following standards: conditions:

(a) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this chapter.

(b) Except as provided in §87.30(1d), Wis. Stats., nonconforming buildings that are subject to regulation under a floodplain zoning ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.

(c) Mitigation measures required elsewhere in this chapter shall be adhered to as they apply (including but not limited to: shoreland buffer requirements, soil disturbance activities grading permit requirements, and the mitigation schedule point adjustment system).

(d) The landowner shall bear the burden of proof as to the size, location or the use that a destroyed or damaged legal pre-existing structure had immediately before the destruction or damage occurred.

(e) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire, mold, ice, snow, infestation or flood, and only in conformance with the provisions of this chapter.

(f) The size of the structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

#### **21.14 - LEGAL PRE-EXISTING LOTS OF RECORD.**

(1) If a lot ~~platted~~created prior to the effective date of this chapter is not deep enough to accommodate required roadway or rear yard setbacks, the roadway or rear yard setback may be reduced until a 30-foot deep building envelope is established. If this reduction is not sufficient to provide a 30-foot deep building envelope, then a reduction in the required setback from the OHWM may be permitted in addition to setback reduction from the roadway or rear yard, until a 30-foot deep building envelope is provided. These reduced setbacks shall only be granted under the following conditions:

(a) The lot must be at least 10,000 square feet in size, at least 65 feet wide at the ordinary high water mark, and at least 65 feet wide at the building line.

(b) In no instance shall the resulting OHWM setback be less than the greater of: one-half that distance which is normally required, or 40 feet.

(c) In no instance shall the resulting highway setback be less than one-half the distance of the normally required setback.

~~(d) If a reduced highway setback is granted, no garage doorway may open toward a public road in order to avoid visual impacts, safety hazards by backing onto the roadway and obstructions along the street side of the lot.~~

(e) If an accessory structure is built within an afforded building envelope upon a vacant lot, such accessory structure shall not exceed 200 square feet in footprint. This size limit does not apply to accessory structures built upon lots occupied by a principal use.

(f) Mitigation requirements of ~~§§21.11 and 21.07(2) and~~ (3) must be adhered to.

(g) All other provisions of this chapter shall be met.

(2) In all other cases, a setback of less than that required under this chapter may be permitted by the Board of Adjustment through a variance procedure in §21.15(2) of this chapter.

(3) A lot created prior to the effective date of this chapter may be used as a building site subject to the following standards:

(a) The legal pre-existing lot was never reconfigured or combined with another lot by plat, survey or consolidation by the owner into one property tax parcel.

(b) The legal pre-existing lot has never been developed with one or more of its structures placed partly upon an adjacent lot.

(c) The legal pre-existing lot is developed to comply with all other ordinance requirements.

(d) The lot must be at least 10,000 square feet in size, at least 65 feet wide at the ordinary high water mark, and at least 65 feet wide at the building line.

### **ADMINISTRATION, CHANGES AND AMENDMENTS,**

## ENFORCEMENT AND DEFINITIONS

### 21.15 - ADMINISTRATIVE PROVISIONS.

#### (1) ZONING PERMITS.

(a) When Required. Except where another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zzoning Ddepartment before any new development, as defined in §21.18, any structural repair of nonconforming structures or any change in the use of an existing building or structure, is initiated.

(b) Application. An application for a zoning permit shall be made to the Zzoning department upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following data: ~~which shall comprise the proposed Site Disturbance Plan:-~~

1. Name and address of applicant and property owner.
2. Legal description of the property and type of proposed use.
3. A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting or proposed highways, and the ordinary high water mark of any abutting watercourses, ~~and water level on a date specified.~~
4. Location and description of any existing private water supply or onsite waste water treatment sewage system or notification of plans for any such installation.
5. A proposed Site Disturbance Plan that includes:

a. The location of planned areas of excavation, clearing, grading or fill spoil deposition, in order to assure that proper methods of erosion control will be addressed.-

b.

~~6.~~ Appropriate use of best management practices to protect the site from erosion, sedimentation, contamination, and vegetation protection. Such measures shall include, but may not be limited to:

1.a. Silt fencing, hay or straw bales and other barriers.

2.b. Sedimentation basins.

3.e. Protective fencing for trees and other vegetation.

4.d. Designated soil stockpile and staging areas.

5.e. Designated heavy equipment and vehicular access drives and staging areas.

6.f. Designation of existing vegetation that will be preserved by the applicant.

7.g. Other techniques as deemed appropriate by the Zoning DepartmentCounty Staff ~~guided by best management practices.~~

8. 7. Demonstration of how the applicant proposes to contain all runoff generated from the property within the same property.

(c) Permit Issuance. Sequence of Activity. All other applicable documents, including but not limited to sanitary permit applications, rural address application and land use affidavit must be completed prior to issuance of the zoning permit. -The Site Disturbance Plan (per §21.15(1)(b)) indicating proposed disturbance and protection techniques must be approved by Lincoln County Staff before a Zoning Permit is granted. All site protection measures required in the approved Site Disturbance Plan must be put in place prior to any site disturbance or construction.

(d) Expiration of Permit. Zoning permits shall expire 24 months from the date issued if work is not completed, unless a one year extension is applied for, without fee, from the Zoning Department prior to the expiration date.

(2) VARIANCE. Any request for relaxation of a standard of the shoreland regulations shall be reviewed by the Board of Adjustment. BOARD OF ADJUSTMENT. Refer to Chapter 17 of the Lincoln County Code of Ordinances - Zoning Ordinance.

(3) FEES; GENERAL. The Zoning Committee may set fees for permits and inspections conducted by the Zoning Department to implement this chapter. Such fees shall be posted in a schedule by the Zoning Department and made available upon request.

#### **21.16 - CHANGES AND AMENDMENTS.**

The County Board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this chapter in accordance with the requirements of §59.69(5)(e). Wis. Stats., Ch. NR 115, Wis. Adm. Code, and §21.12(5) of this chapter where applicable.

(1) Amendments to this chapter may be made on petition of any interested party as provided in §59.69(5)(e), Wis. Stats.

(2) Every petition for a text or map amendment filed with the county clerk shall be referred to the county Zoning Department agency. A copy of each petition shall be mailed to the appropriate district office of the Department of Natural Resources within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate local office of the Department of Natural Resources at least 10 days prior to the hearing.

(3) A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate local office of the Department of Natural Resources within 10 days after the decision is issued.

#### **21.17 - ENFORCEMENT AND PENALTIES.**

Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Department ~~administrator or the county zoning agency~~ shall refer violations to the ~~district attorney or~~ corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violated or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture in accordance with the schedule established by §25.04 of the Lincoln County Code of Ordinances, together with the taxable cost of action. Each day which the violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

(1) As required by §59.69(1), Wis. Stats., where a building or structure violates the dimensional or use standards of this chapter, and the violating building or structure has been in place for more than 10 years before an enforcement action is initiated, such building or structure shall be treated as a legal pre-existing structure. All provisions of §21.13(3) of this chapter shall apply to such buildings or structures.

(2) Any property owner asserting as a defense to a charge of violating this chapter that the alleged violation has been in place more than 10 years before enforcement action was initiated has the burden of proving that:

(a) The building or structure that is in violation has been in place more than 10 years before enforcement action was initiated;

(b) That the building or structure (and its use, if the use is nonconforming) has remained essentially unchanged for at least 10 years;

(c) That the use of the building or structure has been active and continuous for 10 years or more. If use was discontinued for more than 12 months, the use shall not be considered active and continuous.

#### **(3) VIOLATIONS OF PERMITS ISSUED UNDER THIS CHAPTER.**

(a) Violation of a permit issued under this chapter, or any condition or approved plan associated with such permit, shall be deemed a violation of this chapter, and shall constitute grounds for revocation of the permit, as well as fines and forfeitures and any other available remedies. A permit may be revoked only by action of the body that initially granted the permit, following procedures required for its initial issuance to the extent practical. The decision of the appropriate body shall be furnished to the permit holder in writing, stating the reasons therefore.

(b) A permit issued in violation of this chapter, other chapters of the Lincoln County Code of Ordinances, the Wisconsin Administrative Code, or Wisconsin Statutes gives the permit holder no vested right to continue the activity authorized by the permit, and the permit is considered voidable.

(c) In the event the circuit court determines that a permit has been violated and orders compliance within a time certain, an abridged judgment or order to that effect shall be recorded by the Zoning Department with the Register of Deeds if the property owner does not comply. Upon compliance, the Zoning Department shall file an affidavit to that effect.

## **21.18 - DEFINITIONS.**

(1) For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distance unless otherwise specified shall be measured horizontally.

(2) The following terms in this chapter mean:

Accessory structure means a detached subordinate structure which is clearly incidental to or customarily found in connection with the principal structure, to which it is related and which is located on the same lot as the principal structure.

Accessory or use means a detached subordinate structure means -or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

*Back lot* means a parcel of any size, whether or not improved or subdivided or platted, which does not abut the shoreline or ordinary high water mark of a lake.

*Back lot development*, also known as "lot pyramiding", "keyhole development" or "development funneling" is the practice whereby a lot, lots, out lot or common open space or commonly owned lot is used for waterfront access by a number of parcels or lots located away from or not contiguous to the water body.

*Boathouse* means any permanent structure designed solely for the purpose of protecting or storing watercraftboats and associated related materialsequipment for noncommercial purposes and was legally constructed before July 1, 1998, or as allowed by this chapter. This includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

Boat Shelter means any temporary or seasonal structure located entirely below the ordinary high water mark for purposes of storing watercraft. Also known as boat hoist, boat lift or shore station.

Building means anything built or constructed.

*Building line* means a line parallel to a lot line, road right-of-way line, or ordinary high water mark at a distance from it that complies with the various yard requirements established under this chapter.

*Camping unit* includes any portable device, not more than 400 square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, recreational vehicle, or tent that remains on a property for over 60 days per calendar year. Does not include the storage of such camping unit on a lot as an accessory use during periods when it is not occupied. For example, an unoccupied recreational vehicle parked in the driveway of a house is allowable. (Cr. #2008-03-520)

*Class or classification of water body* means the designation of a lake, flowage or other body of water by the Lincoln County Water Classification System maintained by the ~~Lincoln County Zoning Department Office~~ as a "high sensitivity", "moderate sensitivity", or "low sensitivity" body of water.

*Conditional use* means a use which is permitted by this chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Planning and Zoning Committee.

*County zoning agency* means that committee or commission created or designated by the County Board under §59.69(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.

*County Board means the legislative body of Lincoln County.*

*Deck* means an outdoor platform, usually above ground grade, intended to support persons and outdoor furniture such as chairs or a picnic table. It also includes flat roofs over other legal structures if the intention is the same.

~~*Department means the Wisconsin Department of Natural Resources.*~~

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes or camping units; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials. (Am. #2008-03-520)

*Disabled person* means any person with a physical or mental impairment that substantially limits one or more of his or her major life activities, as recognized by the State of Wisconsin.

*Drainage system* means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

*Envelope means the three dimensional space within which a structure is built.*

*Floodplain* means the land which has been or may be hereafter covered by flood water during a regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.

*Highway setback* means the minimum required distance a structure must be located from the constructed centerline or platted right-of-way of a town, county, state or federal highway as prescribed by the County Zoning Ordinance, Chapter 17.

*Housing unit* means any structure that serves to provide overnight accommodations for not more than one family, most commonly a single-family residence or individual condominium unit. It may also include a hotel room, motel room, tourist lodging room, bed and breakfast room or boarding house room in the context of commercial land uses. Synonymous with a residential unit. (Cr. #2008-03-520)

*Impervious surfaces* means an area that releases as runoff all or a portion of precipitation that falls on it. For the purposes of this chapter include: roofs, decks and slotted decks, concrete, blacktop/asphalt, mill felt that is laid to impede ground cover, paver block or landscape rock patios and walkways, brick walkways, sidewalks and driveways. Hard packed gravel driveways, parking areas and walkways shall count as 50 percent impervious in area calculations. Gravel mulch areas around flower beds or borders of walkways, planter beds, retaining walls, gardens, building foundation drains and other drains may contain impervious surfaces but they are not regulated by the impervious surface provisions of this chapter.

*Island means a tract of land that is completely surrounded by water.*

*Land disturbing activity means soil stripping, clearing, grubbing, grading, excavating, filling or the creation of new or replaced impervious surfaces.*

*Livable area* means that portion of a home or other dwelling unit contained under roof that is occupied either seasonally or year round. Such things as attached garages, open decks and floors with a wall height under 7 feet are not considered livable area. Only basements that contain the appropriate exits under SPS

321.03LHR-21-03 (Wisconsin Uniform Dwelling Code) are considered livable areas.

*Lot* means a parcel, piece, tract or portion of land defined by metes and bounds, certified survey, recorded land subdivision plat or other means and separated from other lots, parcels, or similar units by such description. All legally created, pre-existing lots of record shall be considered separate and sellable if they are at least 10,000 square feet in area and contain 65 feet of shoreline frontage and lot width.

*Lot width* means the shortest distance between side lot lines of a parcel at the building line(s).

Mitigation means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

*Native vegetation* means any species of plant common to the pre-development shoreland areas of north-central Wisconsin and listed on a schedule of "Native Plants" maintained by the ~~Lincoln County~~ Zoning Department. Additions to the list may be made with the approval of the ~~Lincoln County~~ Zoning or Land Conservation Department. Approved cCultivars of native species also qualify as Native Vegetation.

*Navigable waters* means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under §281.31(2)(d)m, Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under §59.692, Wis. Stats., and Ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river.
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching or had no previous stream history; and
- (c) Such lands are maintained in nonstructural agricultural use.

*Nonconforming structure (legal pre-existing structure)* means a structure or portion thereof, that was legally established prior to the effective date of this chapter, or subsequent amendments thereto, an existing lawful structure which doesis not ~~in~~-conformity with one or more the-dimensional or structural standards of this chapter.

*Nonconforming use (legal pre-existing use)* means an active and actual use of land or structure or both that was legally established prior to the effective date of this chapter or subsequent amendments thereto, which has continued the same use to the present and ~~existing lawful use or accessory use of a structure, building or development~~ which doesis not ~~in~~-conformity with the provisions of this chapter.

*Ordinary high water mark (OHWM)* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Planning and Zoning Committee means the County Board committee responsible for oversight and policy making of the Zoning Department. See 59.69, Wisconsin Statutes

*Principal structure(s) and use(s)* means any and all of the primary uses of a property, treated as a use permitted by right or as a conditional use, rather than as an accessory use or a temporary use and the structures associated with such use(s).

*Rebuild* means to tear down, dismantle, or remove a structure from its existing location such that a majority nothing remains of the structural elements above the foundation are removed or replaced. The burden to prove the location and condition of existing structures and foundations before alteration is upon the property owner. (Also known as Reconstruction).

*Release* means a silvicultural timber stand improvement practice whereby trees are removed that impede the growth of desired tree species.

*Runoff* means stormwater or precipitation including rain, snow or ice melt, or similar water that moves no the land surface via sheet or channelized flow.

*Runoff control structure* means a structure that collects, controls and transports runoff to ensure water quality protection, reduce soil erosion and to increase infiltration into the soil.

*Shorelands* means lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, ~~river~~, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Shoreland buffer* means the area of protected vegetation located between the ordinary high water mark and a point that is located at least 35 feet inland. Shoreland buffers may include a cleared view and access corridor. Shoreland buffers are required to prevent erosion, limit sedimentation and provide filtering so as to protect and enhance water quality, and to provide a diverse shoreland habitat area. Vegetation within shoreland buffers should be preserved, and where needed, additional vegetation should be established, to improve water quality. ~~There are 2 recognized types of shoreland buffers:—~~

~~(a) A passive shoreland buffer may contain any mixture of native and nonnative plants sufficient to prevent erosion limit sedimentation and provide filtering. Passive Shoreland buffers are often established by the ceasing of mowing.—~~

~~(b) An active shoreland buffer shall contain a mixture of trees, shrubs and groundcover sufficient to prevent erosion, limit sedimentation and provide filtering, and to also provide for habitat diversity as opposed to areas of the subject property located outside of the shoreland buffer. Although a qualified shoreland buffer may contain both native and nonnative plants, only native plants may be planted within an active shoreland buffer. When employed, the plantings shall meet the following specifications:—~~

- ~~1.— Species of plantings shall be selected from a list of native species maintained by the Zoning Department. Cultivars of these species may also be used.—~~
- ~~2.— Trees shall be planted to restore a density of at least one stem per 100 square feet of buffer area.—~~
- ~~3.— Shrubs shall be planted to restore a density of at least 2 stems per 100 square feet of buffer area.—~~
- ~~4.— Ground cover shall be restored to the extent practicable. Mowing shall be prohibited. See §21.07(1).—~~

*Shoreline frontage* means the shortest straight line measurement between 2 lot lines of a parcel, and drawn as a tangent to the OHWM. For peninsular or "bowl shaped" lots, it may be drawn as a tangent to the OHWM and parallel to the meander line.

Shoreland-wetland zoning district means a zoning district, created as part of a county shoreland zoning ordinance comprised of shoreland that are designated as wetlands on the Wisconsin Wetland Inventory maps prepared by the Department of Natural Resources.

~~*Slash materials* means any tree tops, limbs, bark, abandoned forest products, windfalls or other debris left on the land after timber or other forest products have been cut.—~~

*Structure* means anything constructed, moved or erected that has a more or less permanent location on the ground. The following shall not be considered structures for regulation purposes: grade flush pavement, terraces, paths, roads or walkways that measure 5 --4 feet in width or less, gardens and flower beds, minor structures under 16 square feet such as dog houses, bird houses, deer stands, light and flag poles, pump houses over wells, satellite dishes that measure under one meter in diameter, Television or radio antennae, components of an approved septic system for treating wastewater, all above ground vaulted petroleum storage tanks for refueling boats, retaining walls used to control, stop or prevent erosion, and other minor structures similar in nature.

*Structural Repair means To remove or replace less than half of the original structural elements such as a foundation, support posts, floor joists, rafters, trusses, exterior walls or similar structural members. For purposes of calculation the foundation constitutes 20% of the structure, the roof constitutes 20% of the*

structure, otherwise a percentage of the perimeter of each floor/level may be used.

*Variance* means an authorization granted by the Board of Adjustment to allow for the relaxation of a dimensional standard specified in~~construct, alter or use a building or structure in a manner that deviates from the dimensional standards~~ of this chapter.

*View ~~and~~ access corridor.* ~~See §21.09(3)(g).~~ means a strip of vegetated land that allows safe pedestrian access to the shore through the shoreland buffer. See sec.21.09(3) (a).

*Wetlands* means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

*Zoning permit* may include land use permit, 59.692 Permit and soil disturbance~~grading or earth-moving~~ permit.

*Zoning Department* means the department authorized and charged by Lincoln County with the administration and enforcement of this Chapter.

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